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PhD Dissertation Abstract

„The paradox of legal luck. A legal-philosophical study”

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The dissertation deals with the issue in the borderline of philosophy of criminal law and moral philosophy, called "the paradox of legal luck". It refers to the simultaneous acceptance of two opposing beliefs about criminal liability. On the one hand, we say that agent shouldn't be criminally liable for events beyond their control (so-called 'control principle') and, on the other hand, we allow the agent's criminal liability for events beyond their control (the belief about the occurrence of legal luck). Both beliefs are grounded in strong reasons and are intuitively supported. However, simultaneous acceptance of both control principle and the belief about the occurrence of legal luck seems irrational and leads to the paradox, which demands explanation. Importantly, the paradox of legal luck is a derivative of a similar problem occurring in the field of moral philosophy – the paradox of moral luck – concerning the moral responsibility of the subject.

The dissertation has two basic aims. The first is to answer the question, whether the paradox of legal protection ought to, from a moral point of view, occur in the field of criminal law, i.e. whether we should simultaneously accept the principle of control and conviction about the occurrence of legal luck. The second objective concerns the problem of the moral justification of the influence of legal luck on the institution of criminal liability, i.e. whether it is morally permissible that legal luck affects the conditions of ascribing criminal liability. The thesis focuses on the functional approach to criminal liability, which allows to explain away the paradox of legal luck and deliver moral justification for the influence of legal luck on the institution of criminal liability.

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